

101st Legislative Bill Listing of Interest to the Judicial Branch

The following are bills approved by the Legislature and signed by the Governor. Unless otherwise noted, bills are effective August 30, 2009.

LB 7 A clerk of the district court elected after 2008 need not be a resident of the county when he or she files for election as clerk of the district court, but a clerk of the district court shall reside in a county for which he or she holds office.

LB 35 Known as the “court’s bill,” LB 35 contains all or portions of many other bills.

All sections other than Section 4, 5, and 25 become operative August 30, 2009.

Section 4 has an effective date of July 1, 2011. The effective date for Section 5 and Section 25 is May 30, 2009.

Section 1 Court may charge transferable interest of judgment debtor in
and 2: a limited liability company to payment of unsatisfied
 judgment, upon application of a judgment creditor. Charging
 order constitutes a lien on the judgment debtor’s transferable
 interest in LLC.

Creditor shall not have right to possession of property of the LLC.

Third party is not liable for distribution made to judgment debtor in good faith, upon direction of LLC.

Section 3: Supreme Court, Court of Appeals, or any district, juvenile, or
 county court may appoint acting county attorney due to
 absence, sickness, disability or conflict of interest. (23-1205)

Section 4: New district court judge in Lancaster County beginning July
 1, 2011. (24-301.02)

Section 5: District court shall have concurrent (was exclusive) original
 jurisdiction in any criminal matter classified as a
 misdemeanor that arises from the same incident as a
 charged felony. (24-517(6)). Effective date: May 30, 2009.

Section 6: Allows service by depositing with a designated delivery
 service a copy of the summons and complaint, addressed to

the party to be served, delivering to the addressee, and obtaining a delivery receipt. (May be electronic or fax receipt.) (25-505.01)

Section 7 and 8: Changes certified mail to certified mail service.

Section 9: Application for a new trial shall be by motion with causes enumerated in subdivisions 2, 3, and 7 of section 25-1,142 shall be sustained or may be controverted by affidavits. (25-1,144)

Section 10: Adds state ID card holders to jury pool. (25-1,628)

Sections 11, 12, and 13: Relates to cost of civil actions agreed upon by the plaintiff.

Section 14: Certified interpreters do not need to take oath prior to beginning his/her duties. (Oath upon certification.) (25-2,405)

Section 15: In county court, proceedings in regard to garnishment, attachment, or any other aid to execution shall be heard in the court where the original judgment was entered.

Sections 16 and 17: Grants from the Civil Legal Services Fund shall be distributed by the Commission on Public Advocacy.

Section 18: Changes Uniform Licensing Law to Credentialing Act

Section 19: The intestate share of the surviving spouse is \$100,000 plus one-half balance of estate, if there are no children, but the decedent is survived by a parent or parents. (30-2,302)

Section 20: Allows exceptions for costs and expenses of administration being claimed against the estate outside restrictions for presenting other claims. (30-2,485(2)(b))

Section 21: Defines costs and expenses of administration. (30-2,487(5)(c))

Section 22: Increases to \$50,000 value of personal property in decedent's estate allowed to be handled without probate. (30-24,125(a)(1))

- Section 23: Increases to \$30,000 value of real estate in decedent's estate to be handled without probate. (30-24,129(1))
- Section 24: Increases the court automation fee to \$8. (33-107.03)
Effective date: August 30, 2009.
- Section 25: Increases sheriff's fees from \$10 to \$12, with service of second party at same address going from \$2 to \$3. (33-117(1)). Increases service of writ or court order from \$15 to \$18. Effective date: May 30, 2009.
- Section 27: Allows hearing on adoption to be set outside the normal 4-8 week time period, upon request for continuance by all parties. (43-103)
- Section 28: Allows directions on downloading caregiver information forms to be provided in lieu of paper forms to foster parents, pre-adoptive parents, guardians, or relative providing care, etc. (43-1314.02)
- Section 29: Allows juvenile court records to school personnel if ordered by the court. Also allows access to confidential information to CASA volunteers, and other individuals and agencies for which the court specifically finds, in writing that it would be in the best interest of the child. (43-3001)
- Section 30: Requires cooperation between school districts, school personnel, and CASA volunteers. (43-3,713)
- Section 31: Returns LEIF fee to \$2. (81-14,229). Effective date: August 30, 2009.
- Section 32: If a party files a petition for review under the Administrative Procedure Act, the respondent has a right to cross appeal. (84-917(2)(a)(ii))

LB 36 Changes method and procedure for death penalty.

LB 90 Removes the requirement that a defendant waive the right to have counsel physically present with him/her during audio-visual court appearances. (i.e. attorney may appear at a different location, provided counsel and defendant are given an opportunity to communicate confidentially if needed.)

- LB 155** Adopts the Public Protection Act, change provisions relating to theft offenses and criminal impersonation, and create the offenses of identity theft and identity fraud 28-101, 28-518, 28-608, and 29-110.
- LB 167** Allows State employees to participate in employee discount programs. It also allows the Department of Administrative Services to require direct deposit of employee wages and expense vouchers.
- LB 188** Contains several county and state retirement system changes related to vesting credits, breaks in service, payment deferral and death benefits. For state employees it also changes provisions related to deferred compensation. Please contact the Nebraska Public Employees Retirement Systems (800-245-5712) for more information. Operative date: 7/1/2009.
- LB 201** A court of this state shall have initial and continuing jurisdiction to make any determinations and to grant relief upon the motion or complaint filed by any parent or custodian of a child who is the subject of a foreign court's custody determination and a habitual resident of Nebraska. The absence or dismissal, either voluntary or involuntary, of an action for the recognition and enforcement of a foreign court's custody determination under subsection (b) of this section shall in no way deprive the court of jurisdiction set forth in this subsection. This subsection shall be deemed remedial and shall apply to all cases pending on or before the effective date of this act and to all cases initiated subsequent thereto.
- LB 237** Adopts the Interstate Compact for Juveniles and the Interstate Compact for the Placement of Children.
- LB 260** Allows an individual who is wrongly convicted of a crime and imprisoned to recover damages of up to \$500,000.
- LB 274** Authorizes the Director of Correctional Services to assign felony offenders to an incarceration work camp as prescribed.
- LB 285** Changes Sex Offender Registration Act provisions. The following changes go into effect May 30, 2009:
- Anywhere in the previous law where it required the individual to report in 5 days is now 3 days;
 - The length of registration is now 15 years, 25 years, or lifetime, based on specific sentences;
 - This registration period then affects the regularity with which individuals have to report to law enforcement (15 years – 1 time per year; 25 years – every 6 months; lifetime – every 3 months;

- The court is required to inform the defendant of the registration requirements, so this standard notification must change to reflect the changes in the law; and
- Some definitions were updates as well.

Also included is the expansion of offenses for which a person may be required to register effective on January 1, 2010. These will need to be included as a part of notification to the defendant.

LB 199 Adopted as Amendment to Legislative Bill 288

LB 288 incorporated many of the provisions of what was LB 199. Sections 5 - 8 of LB 288, which deals with children's health care coverage in child support cases, generally require that "cash medical support," as defined, be ordered within a child support order in situations where health care coverage is not available at a reasonable cost, as defined, or is inaccessible to the child, as defined, AND one or more of the parties are receiving Title IV-D Services. The operative date for these sections will be September 30, 2009.

- LB 313** Appropriates funds for the salaries and benefits of constitutional employees, including judges. EMERGENCY CLAUSE. Operative date: 7/1/2009.
- LB 315** Known as the "mainline" budget bill, it appropriates funds for the next two fiscal years for the operations and aid of all of State government. The Supreme Court received an increase for the next two fiscal years of between 2 and 3%. The final budget includes funds for: a salary and health insurance increase, an additional salary increase for county court employees, use of retired judges and interpreter expenses. In addition it includes increased spending authority for the following areas: Judicial Branch Education, the Office of Dispute Resolution and JUSTICE. Operative date: 7/1/2009.
- LB 343** Establishes a specific end date for the term of office (1) for purposes of Neb. Rev. Stat. § 24-817, of a judge who loses a retention election, and (2) for purposes of Neb. Rev. Stat. § 24-818, of a judge who fails to file with the Secretary of State an indication, as required by law, of his or her desire to stand for retention in office. The end of the term of office shall be the first Thursday after the first Tuesday in January next succeeding the retention election.
- LB 414** Increases judges' salaries by 2.5% in each of the next two years. Additionally, the bill's provisions set forth a \$1 court cost increase to fund judges' retirement, and all judges will be contributing an additional 1% of their salaries to the Judges' Retirement Fund. Effective 7/1/2009.

- LB 430** Change provisions relating to the Concealed Handgun Permit Act.
- LB 463** Provide for licensure of animal therapists, change authorization for collaborative animal health care tasks and veterinary drug distribution definitions, and change distribution of veterinary legend drugs provisions.
- LB 494** Changes provisions relating to dangerous dogs.
- LB 497** Changes ignition interlock device provisions and penalties. EMERGENCY CLAUSE. Effective date: 5/13/2009.
- The new law which was passed with the emergency clause now provides that it is within the court's discretion to determine whether a defendant is eligible for interlock in certain cases in relationship to a revocation of their driving privileges. The law also provides that when an offender is determined indigent, the provider will be reimbursed at a rate of 100% through the interlock fund managed through the Office of Probation Administration. The law also clarifies the application of the law as it relates to the arrest and sentencing date.
- Finally, if an offender circumvents or tampers with an interlock device, an evidentiary hearing must be conducted by the court within 14 days of notification.
- A grid has been developed and will be provided by DMV.
- LB 517** Changes provisions relating to family reunification and termination of parental rights.
- LB 524** Changes the penalties for a handicapped parking infraction to \$50 for the first offense, \$300 for the second offense in a one-year period, and \$500 for a third offense in a one-year period.
- LB 540** Changes membership of the Children's Behavioral Health Task Force. EMERGENCY CLAUSE. Effective 5/26/2009.
- LB 603** Adopts the Children and Family Behavioral Health Support Act which includes establishing a hotline and services for adoptive and guardianship families. It also established a Children's Behavioral Health Oversight Committee within the Legislature. Sections 2 and 16 operative 8/30/2009; remainder of the bill operative 5/23/2009.

This series of bills are JUSTICE related. Changes have been made or are in process.

2009 (JUSTICE) Bills

- LB 5** Eliminates a restriction and a penalty on trapping wildlife in county road rights-of-way. 37-513 and 37-614.
- LB 48** Adopts updated federal motor carrier safety and hazardous material regulations. 75-363 and 75-364. EMERGENCY CLAUSE. Effective date: 5/9/2009.
- LB 63** Changes provisions and penalties relating to assault, firearms and other weapons, graffiti, gang affiliation, juveniles, bail, jailhouse informers, appeals, violence prevention, prisoner employment, and dating violence policies. EMERGENCY CLAUSE. Effective date: 5/27/2009.
- LB 92** Require vehicles to move over upon approach of stopped emergency vehicles. 60-6,151.
- LB 97** Change provisions relating to foreign corporations and provisions and penalties relating to certain sex offenders. 21-20,177; 21-20,179; 28-101; 28-311; 28-320.02; 28-813.01; 28-1010; 28-1463.02; 28-1463.03; 28-1463.04; 28-1463.05; 29-110; 29-4001; 29-4003; 29-4006; 29-4007; and 29-4008. EMERGENCY CLAUSE.
- LB 99** Adopts the Anthrax Control Act. 54-754; 54-755; 54-756; 54-757; 54-758; 54-759; 54-760; 54-761; 54-762; and 54-763. EMERGENCY CLAUSE. Effective date: 2/26/2009.
- LB 105** Changes provisions relating to fees, licenses, permits, funds, penalties, and damages under the Game Law and the State Boat Act. 28-1,335; 37-201; 37-314; 37-327; 37-407; 37-410; 37-411; 37-415; 37-417; 37-426; 37-431; 37-432; 37-433; 37-438; 37-440; 37-447; 37-448; 37-449; 37-450; 37-451; 37-455; 37-455.01; 37-456; 37-457; 37-458; 37-462; 37-463; 37-465; 37-477; 37-478; 37-479; 37-481; 37-483; 37-484; 37-497; 37-4,104; 37-4,105; 37-4,106; 37-4,108; 37-4,111; 37-501; 37-504; 37-507; 37-513; 37-514; 37-523; 37-613; 37-727; 37-1,212; 37-1,214; 37-1,217; 37-1,227; 37-1,241.07; 37-1,241.08, and 54-2,313.
- LB 111** Changes provisions relating to fines for speeding in a construction zone. 60-682.01. EMERGENCY CLAUSE. Effective date: 4/22/2009.

- LB 204** Changes certain commercial motor vehicle penalty provisions. 60-4,141.01 and 60-4,168.01.
- LB 208** Adds false information about employees to the crime of fraudulent insurance act and to the Insurance Fraud Act. 28-631.
- LB 285** Changes Sex Offender Registration Act provisions. The following changes go into effect May 30, 2009:
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